Supreme Court, U. S.
FILED
JAN 25 1979
MICHAEL RODAK, JR., CLERK

IN THE SUPREME COURT OF THE UNITED STATES
OCTOBER TERM, 1979

NO. 78-1378

PETER VAICEKAUSKAS,

Petitioner

vs.

UNITED STATES OF AMERICA:
IMMIGRATION AND NATURALIZATION
SERVICE, CHICAGO, ILLINOIS,

Respondent

PETITION FOR WRIT OF CERTIORARI TO
THE UNITED STATES COURT OF APPEALS
FOR THE SEVENTH CIRCUIT,
CHICAGO, ILLINOIS

PETER VAICEKAUSKAS
7042 South Artesian Avenue
Chicago, Illinois 60629

Petitioner and Counsel

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Respondent

PETITION FOR WRIT OF CERTIORARI TO
THE UNITED STATES COURT OF APPEALS
FOR THE SEVENTH CIRCUIT,
CHICAGO, ILLINOIS

CASE NO. 78-1007

BEFORE
HON. WALTER J. CUMMINGS, CIRCUIT JUDGE
HON. WILBUR F. PELL, JR., CIRCUIT JUDGE
HON. HARLINGTON WOOD, JR., CIRCUIT JUDGE

To the Honorable Chief Justice and
Associate Justices of the Supreme Court
of the United States:

Peter Vaicekauskas, the petitioner herein, respectfully prays that a Writ of Certiorari issue to review the judgment and opinion of the United States Court of Appeals for the Seventh Circuit entered in the above-entitled case on October 18, 1978.

HISTORY, WITH TRUE FACTS

1. I was born in Lithuania. In 1944 I came into Germany. In 1955 I emigrated to the United States. In 1961 I became a naturalized citizen of the United States.

2. Education: I graduated from high school in West Germany, and in 1955 I graduated university, Die Technische Chochschule Fridericiana Zu Karlsruhe in West Germany, as a Mechanical Engineer with 220 credit hours.

3. Employment: As Mechanical Engineer
   a. Five years at U.S. Army Armament Materiel Readiness Command, Rock Island, Illinois (presently employed there).

   b. Six years at U.S. Army Ammunition Procurement and Supply Agency, Joliet, Illinois.

   c. Four years at U.S. Navy Ordnance Plant, Forest Park, Illinois.

   d. Four years at Ford Motor Company, Livonia, Michigan.

   e. Two years at Massey Ferguson, 12601 Southfield Road, Detroit, Michigan.

   f. One year at Timken Axle Division, 400 Clark Avenue, Detroit, Michigan.

   g. One and one-half years at Fisher Body, General Motors, 30001 Van Dyke Avenue, Warren, Michigan.

4. Description of the Subject Court Case:

   In 1970 I returned to Lithuania for a visit and I did sign a marriage contract without marriage with O. N. Steponaviciute in Kaunas,

Lithuania, in accordance with the authorization by the U.S. State Department just to make it legal for her immigation into the United States. I promised to support her and provide for her graduation from the University in Kaunas, Lithuania and make it possible for her to emigrate to the United States. She promised to be faithful as my fiancee and finalize the special marriage in church and in City Hall in accordance with the law, as required by our state. In 1971 she emigrated to the United States, but she refused to finalize the marriage. She also stated she is married and now is asking for a divorce. It means she did break the signed marriage contract without marriage and she therefore became an illegal alien with a false last name - Vaicekauskas.

One time I told her that if she did not respect the marriage contract, America could deport her back to Lithuania. She replied that if America would deport her she would go to Lithuania as a Russian and get a good job and an apartment, and she would speak against America on the radio and television, explaining how bad it is in the U.S.A., because she is an active member of the Trade Unions in the U.S.S.R. which provides the basis for Communist Party operations in the U.S.S.R. In addition, she did poison me.

In October, 1971, I was commanded to Kansas from the U.S. Army during which time she packed up $3,000 worth of merchandise from my apartment and then she deserted me. She left a note stating, "I am leaving. Do not look for me."

In November, 1972, we appeared in court. I asked for an annulment and she asked for a divorce. On the court date in the Circuit Court of Cook County Building, my lawyer, H. R. Weiss, 134 North LaSalle Street, Chicago, Illinois, stated to me that my court case is already decided in advance not in my favor because a

Lithuanian judge, Hon. Alphonse Wells, of this Circuit Court, has possible close rleations with my fiancee, and he has fixed up the court proceedings to appoint a judge, Hon. M. G. O'Malley, and hired her attorney, Mr. Belz, which will favor my fiancee. Therefore, I was forced to agree that the annulment will be given to her to protect myself against a devorce by being never married.
O. N. Steponaviciute obtained the last name of Vaicekauskas illegally, just for immigration purposes only; now she has another illegal last name, Daugirdas.

In September of 1971 I reported her to the Immigration and Naturalization Service in Chicago, Illinois by asking them to deport her back to Lithuania. Later on, a deportation form was issued by I.N.S. in Chicago, Illinois, which was signed by me, my mother, and an officer of this I.N.S. The office of I.N.S. in Chicago, Illinois always refused to deport her to Lithuania.

During the same time (1971) my position as Mechanical Engineer at the U.S. Army Ammunition Procurement and Supply Agency (A.P.S.A.) in Joliet, Illinois, was pressured, resulting in an unsatisfactory performance rating plus stopping of advancement after 10 years of federal service as a Mechanical Engineer (see Exhibit No. 1). Just take a look at this Exhibit No. 1: Employee's Career Appraisal Technical Competence was rated as "0" (Zero). Peter Vaicekauskas was graduated from one of the best engineering universities in the world with 220 credit hours (see Exhibit No. 2), plus the experience of eight years in private industry and 10 years in federal government, which should deserve a much better performance rating.

In addition, the U.S. Army forced me into two court hearings, which were planned to dismiss me from federal government employment. Finally, I

won the second court hearing with the help of Attorney C. V. Falkenberg, 10 South LaSalle Street, Chicago, Illinois, by paying him $2,068. During this same time I was illegally hired and transferred to a newly established U.S. Army Headquarters Armament Materiel Readiness Command, Rock Island, Illinois, because I had an unsatisfactory performance rating.

5. F.B.I. File:

The F.B.I. in Chicago, Illinois did investigate me in 1971 and 1972 with regard to illegal alien O. N. Steponaviciute. The F.B.I. file for Peter Vaicekauskas consists of 51 pages. Forty-Seven pages were furnished by the F.B.I., four pages being withheld by the F.B.I. These 47 pages were reviewed by me, which indicates that 11 statements made by the F.B.I. are incorrect and unlawfully directed against Peter Vaicekauskas for the purpose of protecting the illegal alien, O. N. Steponaviciute, against deportation. In addition, two other very important statements made by me and the deportation form issued by I.N.S. in Chicago, Illinois and signed by me, my mother, and an I.N.S. officer were not recorded by the F.B.I., which proves, again, that the F.B.I. is providing protection against deportation of the subject illegal alien, O. N. Steponaviciute.

6. The Latest Incidents:

On November 14, 1978, I was having lunch at Denny's Restaurant in Davenport, Iowa. Two men came in and sat down a few yards from me and started a conversation with each other that they have a contract to kill Peter (Vaicekauskas), and that this contract was paid by Otilija (Daugirdas) with the special request to kill me and let my body dry out in the Iowa cornfields. Further, these two men stated it could be done or possibly would be accomplished

(that type of special killing) but she, Otilija, should come with more money. In addition, they stated that I provided for her to emigrate to America but now she is deportable and needs to kill me to destroy all evidence for deportation.

On November 16, 1978, at 12:30 A.M., I returned late from Rock Island, Illinois to Chicago, Illinois, and in the lobby at 4300 West Ford City Drive, the home of my friend and relative, I was accosted by a men with a hand gun, which he was holding and playing against me. He was left-handed.

On November 28, 1978, I reported these two incidents to the U.S. Army Armament Materiel Readiness Command in Rock Island, Illinois, Security Officer Joe Griffen.

On November 29, 1978, the same U.S. Army Security Office as November 28, 1978 requested me for an interview with Joe Griffen and his Chief, E. J. Cooper. Mr. Cooper stated that he knows these incidents which were directed to kill me. He started to pressure me that I must stop the subject Supreme Court action, that E. J. Cooper would contact the individuals at Iowa and in Chicago, Illinois, and they would stop the action to kill me.

On December 3, 1978, I reported these two incidents to the Chicago Police Department. The Chicago police stated that the incident at 4300 West Ford City Drive, Chicago, Illinois the personal description fits a detective of the Technical Unit in Chicago; that it is possible they did not made any report.

On December 4, 1978, I reported these two incidents to the Inspector General located at the U.S. Army Armament Materiel Readiness Command in Rock Island, Illinos, and I received a reply (see Exhibit No. 3).

In addition, I reported these two incidents to the F.B.I. in Chicago, Illinois, Rock Island, Illinois, and the Davenport Police in Davenport, Iowa.

On November 30, 1978 I reported these two incidents to my supervisor, Mr. Del Greene. After a few hours, he came back and stated that he got information from E. J. Cooper and others that the incident in Iowa was created by the U.S. Army Armament Materiel Readiness Command, Rock Island, Illinois, and the other incident in Chicago, Illinois is a mob action. Mr. Del Greene requested that I stop the Supreme Court Action and never initiate these types of actions if I liked to live.

ORDER

This section provides only a general outline for the subject court case.

Personal Jurisdiction

The United States Court of Appeals for the Seventh Circuit states that the federal government and its agencies are immune from suits and claims for damages against the government and their agencies. That statement is incorrect because in accordance with the United States Constitution and the latest United States Supreme Court rulings, nobody should be exempt from prosecution, which includes city, state, and federal agencies with their centralized operating governments. Blackmar v. Guerre, 342 U.S. 512 (1952): One Discharged Employee of the Veterans Administration v. Guerre; Civil Service Commission - That court case is not related to this subject court case. Hartke v. Federal Aviation Administration, 369 F. Supp. 741 (D.C.N.Y.) (1973) at 743: A United States Senator brought an action against the Federal Aviation Administration and its Administrator - This court is not related to the subject court case. Meyer Mfg. Co. v. Foley, 234 F. Supp. 732 (D.C.

Iowa, 1964): The suit was initiated against the Administrator of the Small Business Administration, which is an agency of the United States - This court case is not related at all. Fed. R. Civ. P. 15(a): This is not applicable in accordance with the above information. Therefore, my court case is in good shape to go to the Supreme Court of the United States of America.

SUBJECT MATTER JURISDICTION - EXHAUSTION OF REMEDIES

The Federal Tort Claims Act (28 U.S.C. par. 2675(a): This paragraph states that an action shall not be instituted upon a claim against the United States which has been presented to a federal agency. This claim is presented to the federal agency, which is the I.N.S. (U.S. Government) in Chicago, Illinois.

Melo v. United States, 505 F.2d 1026 (8th Cir. 1974): This involves the automobile collision of a postal employee - not related at all. Best Bearings Co. v. United States, 463 F.2d 1177 (7th Cir., 1972): This involves federal Tort Claims Act suit predicated on the alleged situation that the ball bearings were taken from plaintiff by the F.B.I. agents - This suit is not related at all to my subject suit. Bialowas v. United States, 443 F.2d 1047 (3d Cir., 1971): This suit is against the United States for property damage and personal injuries sustained when a mail truck collided with the rear of plaintiff's car - This suit is not related at all to my subject court suit.

The negative statements presented by the United States Court of Appeals for the Seventh Circuit include the Tort Claims Act, samples of previous court cases, with Best Bearings, supra, at 1179, not being related at all to this subject Supreme Court case, as per above presented proof by petitioner.

One step further: At that time petitioner was

represented by counsel - Mr. Torme Horwich & Briskman, 180 North LaSalle Street, Chicago, IL 60601. Mr. Torme Horwich has reviewed and corrected the subject Supreme Court case and stated to me that my court case is in accordance with federal rules and regulations and therefore this suit was improperly dismissed for lack of jurisdiction.

MANDAMUS - STANDING

The United States Court of Appeals references the Supreme Court as follows: The Supreme Court has clearly stated "A citizen lacks standing to contest the policies of the prosecuting authority when he himself is neither prosecuted nor threatened with prosecution."

This statement may be correct, but very surely does not meet the required conditions, for the following reasons:

1. Petitioner and the illegal alien signed a marriage contract without marriage by authorization of the U.S. State Department, in 1970, in Lithuania. Petitioner has provided her (the illegal alien) with gifts, a sure possibility for immigration, and support to graduate university in Kaunas, Lithuania. In 1971 the illegal alien emigrated to the U.S.A. The first day she did break the marriage contract without marriage, by refusing to get married. Therefore, she became an officially illegal alien with a false last name - Vaicekauskas.

2. In September of 1971 she did poison me and she admitted doing so because she wanted to keep my nice apartment and my property.

3. On August 14, 1971 she emigrated to the U.S.A. and on October 14, 1971 she deserted my apartment, taking with her not less than $3,000 worth of merchandise from my apartment. She left a note: "I am going. Do not look for me."

4. She prosecuted me in the Circuit Court of Cook County, Chicago, Illinois, by asking this Court for a divorce and that I pay her lawyer, without being married to me. With this she detroyed my family in the making, with no hope of getting married at all.

5. On November 14, 1978, she hired two gangsters to kill me in Davenport, Iowa.

6. On November 16, 1978, she hired one gangster to kill me in Chicago, Illinois.

7. She did provide incorrect information to the F.B.I. in Chicago, Illinois, and the F.B.I. threatened me and the F.B.I. created an incorrect F.B.I. file on the petitioner.

8. During the same time, after the illegal alien deserted my apartment in 1971, my position as Mechanical Engineer at the U.S. Army, A.P.S.A., Joliet, Illinois, was pressurized, which resulted in an unsatisfactory performance rating and advancement stopping. In addition, the U.S. Army forced me into two court hearings, which were planned to dismiss me from federal employment. Finally, I won the second court hearing against the U.S. Army with the help of an attorney, paying him $2,068. In between these two court hearings, I was illegally hired and transferred from A.P.S.A., Joliet, Illinois, to A.R.R.C.O.M., Rock Island, Illinois, without changing my unsatisfactory performance rating into a satisfactory rating as required by the Civil Service Commission. After I won the court case, which was performed by the Performance Board of Review, against the U.S. Army, the Performance Board of Review ordered the U.S. Army to change my unsatisfactory performance rating to a satisfactory one, but the U.S. Army refused to do so.

9. Linda R. S. v. Richard D.[6], 410 U.S. 614 (1972), at 619, involves appellant, mother of an illegitimate child, bringing a class action against the discriminatory application of a Texas criminal statute.

Nader v. Saxbe, 497 F.2d 676 (1974), at 679, n. 18: This involves policies, many other factors and executive functions, but has nothing to do with my subject court case.

Cf. Smith v. United States, 375 F.2d 243 (5th Cir., 1967), cert. den., 389 U.S. 841: Involves an action under Federal Tort Act brought by the proprietor of a business against the United States, claiming that the government failed to arrest or prosecute persons injuring plaintiff's business.

Ramirez v. I.N.S., 550 F.2d 560 (9th Cir., 1977: Involves plaintiff against the I.N.S., but has nothing to do with my suit.

Le Tourneur v. I.N.S., 538 F.2d 1368 (9th Cir., 1976), cert. den., 429 U.S. 1044: Involves an alien appealing from a decision of the Board of Immigration Appeals, which held the Immigration and Naturalization Service order to deport him.

Chavez-Roya v. I.N.S., 519 F.2d 397 (7th Cir., 1975): Involves a petition which was filed for review of a final order of deportation rendered by the I.N.S. to depart an alien.

Costello v. I.N.S., 376 U.S. 120 (1963), at 128: Involves a naturalized citizen, petitioner, who was convicted of two offenses of income tax evasion.

U.S. ex rel. Masucci v. Follette, 272 F.Supp. 563 (S.D.N.Y., 1967), at 565: Involves an action by a state prisoner against the Warden, Chairman of the State Board of Parole and District Director of I.N.S. to compel prisoner's deportation to Cuba, the prisoner being a legal citizen of the U.S.A.

Gordon & Rosenfield, Immigration Law and Procedure (1978), 5-8, citing Texas State A.F.L.-C.I.O. v. Kennedy, 330 F.2d 217 (D.C. Cir. 1964), cert. den. 379 U.S. 826: Involves an action by a union and

union members against the United States Attorney General, the Commissioner of the I.N.S. and others for declaratory and injunctive relief concerning aliens permitted to commute from their homes outside the U.S. to established places of employment in the U.S.

Guan Chow Tok v. I.N.S., 538 F.2d 36 (2d Cir 1976): Involves judiciary procedures and congressional power for admission and expulsion of aliens.

Nader v. Saxbe, 471 F.2d, at 680: This is an incorrect identification. It should be: Nader v. Saxbe, 497 F. 2d, at 680: This suit has nothing to do with my court case.

Under the Deportation Statute (8 U.S.C. par. 1252, and par. 1254): Paragraph 1252 describes deportable aliens of general classes and paragraph 1254 states the Attorney General may admit aliens and suspend deportation where the alien has a good character and high morals.

The Administrative Procedure Act, 5 U.S.C., par. 701(a)(2) states that Agency action is committed to Agency discretion.

10. In 1974 at U.S. Army A.R.R.C.O.M., Rock Island, Illinois, I received a DF written by Omar Jensen which stated that I should go to the medical doctor at the U.S. Army A.R.R.C.O.M. in Rock Island, Illinois in order to prove my fitness to continue my employment with the U.S. Army. At the time Mr. Jensen was not my supervisor. Therefore, I went to the Administrative Chief and actually my supervisor, Robert Gunnare, to ask him why Mr. Jensen, not being my supervisor, had a right to write a DF. to me. Mr. Gunnare replied that after Mr. Jensen wrote the DF to me, he was now my supervisor and he (Gunnare) could do nothing about this. I normally drink a cup of coffee every morning, but that morning my coffee was poisoned, affecting my spine and my vision.

11. In 1976, in Davenport, Iowa, by Motel 6, four screws were removed and one screw made loose from the front wheel of my automobile, almost causing a fatal accident while driving from Rock Island, Illinois to Chicago, Illinois.

12. In 1977 in my apartment in Chicago, Illinois at 7042 South Artesian Avenue, one day I found something that looked like tooth paste in my drinking glass. It was about three inches long, some sort of colorless substance, which I removed and gave to a hungry bird. In a short time the bird fell asleep and died.

13. These referenced court case examples, including a few paragraph statements, are providing good general information to the mandamus-standing subject, but specifically all this information has nothing to do with my court case, and further, these court case examples are not related at all to my subject court case.

This Court of Appeals states that the Attorney General has a discretion to prosecute or deport aliens. This statement might be theoretically correct or incorrect for the following reasons:

1. Petitioner has already provided the same information as stated herein to the United States Attorney General's Office in Chicago, Illinois, to which petitioner did not receive any reply.

2. Under the Departation Statute, par. 1252, which describes aliens only, does not apply in my court case inasmuch as she is not an alien, but an illegal alien. Paragraph 1254 states that the Attorney General may admit an alien and suspend deportation if the person has good character and high morals. In this paragraph again, it refers to an alien, but in my court case she is an illegal alien.

In this special case, let's make her (the illegal alien) an alien, but it is required that she have

a good character and high morals. For this reason, the United States Supreme Court should read these paragraphs (from 1 to 8) and the additional paragraphs (from 10 to 12):

Par. 1: States that she is an international criminal, corrupt liar, with maximum bad character and very low morals.

Par. 2: She tried to kill the petitioner, who paid all her bills, educated her, and provided her immigrationt into the U.S.A.

Par. 3: She is a thief and an extortionist. She did extort directly from me not less than $30,000, which was my savings for 20 years in this country.

Par. 4: She prosecuted me in court by asking for a divorce, when she knew she was never married to me.

Par. 5: She tried to kill me when I was in Davenport, Iowa because she needs to cover up the evidence for deporting her back to Lithuania.

Par. 6: She tried to kill me when I was in Chicago, Illinois for the same reason as stated above in par. 5.

Par. 7: She furnished false information to the F.B.I. in an attempt to force me to defect.

Par. 8: She tried to destroy my profession for the reason as stated in par. 7 above.

Par. 9. She tried to poison me at my work, or possibly to make me so sick that I would lose my employment.

Par. 10: She damaged my automobile in Davenport, Iowa in an attempt to create a fatal accident.

Par. 11: She tried to poison me again in my apartment in 1977.

3. In accordance with 8 U.S.C. 1184(d) it is stated that every fiancee should be deported if she fails to marry. That statement is correct, but in my case the I.N.S. and the Attorney General failed to deport her. Further, Sections 1252, 1253, and 1254 require a good character and high morals. In my case, see paragraphs 1 to 8 and paragraph 10 to 12.

The Attorney General or District Director use the 8 C.F.R. 103.1(n) and orders proceedings and the Immigration judge should order deportation by showing cause of deportation. In my case the Judge failed to do the right thing because every federal institution was provided with correct deportable information, the same information you get if you read H.R. Rep. No. 851, 91st Cong., 2nd Sess., 1970 U.S. Code, Cong. & Ad. News 2750.

4. The Court of Appeals admits that petitioner has sustained an injury in fact, but I should be sacrificed to the zone of interest protected by the Immigration and Naturalization Act, the public interest, the intentional torts of illegal aliens by reading H.R. Rep. No. 1365, 82nd Cong., 2d Sess., 1952 U.S. Code Cong. & Ad. News 1653. All these statements presented by the Court of Appeals are not related to humans. Therefore, they are not related at all to my subject court case.

Petitioner is not asking for punishment for anyone who is not guilty, but he is requesting the Supreme Court to correct the existing impossible situation, as was described in this subject Writ, in accordance with the law, between him, the subject illegal alien, and the U.S. government.

Furthermore, petitioner has finally again reviewed all of the presented documents from the District Court and from the Court of Appeals, but he could not find anything at any place which would state that such illegal alien (as O. N. Steponaviciute) (Vaicekauskas, Daugirdas) with such bad character and such low morals, as described in the Writ presented by

petitioner, should not be deported to Lithuania, therefore that dismissal by the District Court for want of jurisdiction was entirely improper because the Immigration and Naturalization Service, the Attorney General, and the U.S. Courts are responsible for the actions of illegal aliens after they are reported to their offices.

For the above reasons, the Order of the District Court is entirely improper affirmed by the Court of Appeals for the Seventh Circuit.

CONCLUSION AND REQUIRED ACTIONS

Petitioner, Peter Vaicekauskas, a U.S. citizen, is representing his petition of his Writ to the Supreme Court of the United States for review to make a final decision in accordance with the law.

All furnished information by petitioner represents the true facts and these true facts are not allegations.

Petitioner has reviewed his presented factual Writ to the Supreme Court of the United States and found that the United States of America, Immigration and Naturalization Service in Chicago, Illinois has initiated and further conducted a conspiracy against the petitioner by refusing to deport petitioner's fiancee, an illegal alien, back to Lithuania, involving the F.B.I., U.S. Army, U.S. Attorney General, Local Courts, Chicago Police, Davenport, Iowa Police, gangsters, and my fiancee with false information.

The conspiracy by the United States of America, Immigration and Naturalization Service, Chicago, Illinois, involving the other federal agencies, state and city agencies, gangsters and my fiancee against petitioner, Peter Vaicekauskas, proves the evidence presented to be correct with 95% or better beyong a reasonable doubt.

Petitioner, Peter Vaicekauskas, a U.S. citizen, is

requesting the Supreme Court of the United States to enforce the law in accordance with the United States Constitution and end the conspiracy against the petitioner by enforcing the necessary corrective actions and enforcing the payment of damages to the petitioner by the United States of America, Immigration and Naturalization Service, including all other involved federal agencies as required by the law, as follows:

1. To stop all unlawful actions against the petitioner.

2. To correct the petitioner's F.B.I. file in accordance with the input information to the U.S. Attorney General and authorize these four pages to petitioner which were withheld by the F.B.I.

3. To promote petitioner in accordance with his education and his experience because he has been employed 11 years without any promotion.

4. To change to satisfactory petitioner's unsatisfactory performance rating for the period 1971 through 1973 by direction of the statutory Performance Rating Board of Review.

5. To transfer petitioner back into the Chicago, Illinois area from Rock Island, Illinois because he was illegally moved.

6. To deport the illegal alien, O. N. Steponaviciute (Vaicekauska, Daugirdas) back to Lithuania, U.S.S.R.

7.	Lawyer's fees and stolen merchandise	$12,094
8.	Loss of days from work	2,575
9.	Preparing documents, printing	2,325
10.	Estimated loss for stopping promotion	47,000
11.	Damage to petitioner's career and profession	100,000
12.	Creditability was destroyed to get married	250,000

	Brought forward	$413,994
13.	Attempt to deface and destroy my character	100,000
14.	Living away from home since August, 1973	41,472
15.	Attempted murder of petitioner (six times)	600,000
	Total damages	$1,155,466

The total loss of $1,155,466 represents the minimum damage to petitioner, Peter Vaicekauskas, by the United States of America, Immigration and Naturalization Service, including other federal agencies.

Respectfully submitted,

Peter Vaicekauskas
7042 South Artesian Avenue
Chicago, IL 60629

Petitioner and counsel

EI
EXHIBIT NO. I

EMPLOYEE CAREER APPRAISAL

CONTROL NUMBER	Date of Birth Day	Month	Year	Date of Appraisal Day	Month	Year	INSTRUCTIONS FOR COMPLETION
	02	06	25	11	17	72	Do not complete Control Number (Col. 1-6). Complete Date of Birth and Date of Appraisal (Cols. 7-18) Use numbers.

NAME (Last, First, Middle Initial)	Social Sec No.	DOD Component	Career Field Code
VAICEKAUSKAS, PETER NMN MR.	374-38-2861	ARMY	

POSITION TITLE, CSC SERIES AND GRADE
Mechanical Engineer (Ind Equip), GS-830-12

NAME AND LOCATION OF EMPLOYING ACTIVITY
HQ, USAMCCOM, Ammunition Procurement & Supply Agency
Joliet, Illinois MT-E

CAREER FIELD
Engineer & Scientist

SECTION I - CAREER APPRAISAL

THIS SECTION IS TO BE USED TO APPRAISE THE EMPLOYEE'S POTENTIAL CAPABILITY AS JUDGED AGAINST ESTABLISHED CHARACTERISTICS AND SKILL REQUIREMENTS FOR PROGRESSION IN THE CAREER FIELD.

CARD COLUMN	APPRAISAL ELEMENTS Enter Code which most nearly describes the employee's potential capability, particular consideration will be given to those components following each element in parentheses.	CODE LEVEL	NUMERIC CODE LEVELS 4. Outstanding 1. Marginal 3. Above average 0. Unsatisfactory 2. Average IDENTIFY SKILLS AND CHARACTERISTICS established as requirements, and upon which determination of code level is based.
	1. TECHNICAL COMPETENCE (Soundness in decisions, solutions and recommendations, quality of work produced)	0	Quality of work produced is unsatisfactory. Technical solutions to work assigned is unsatisfactory. Shows incapability to perform technical work satisfactory.
	2. QUANTITY AND TIMELINESS (Meeting of schedules and deadline accomplishing of workload in order of priority)	2	Meets schedules generally on time.
	3. WRITTEN COMMUNICATION (Expression of ideas in a clear, precise and convincing manner.)	0	Has difficulty in written communication. Frequently misspells words; exhibits poor sentence structure; has an unsatisfactory understanding of proper grammar.
	4. ORAL COMMUNICATION (Expression of of ideas in a clear concise and convincing manner. Consider both face-to-face and conference situations.)	1	Has difficulty in expressing his ideas clearly. Lacks ability to be convincing due to unsatisfactory technical solutions.
	5. COOPERATION (Exercising tact and diplomacy and maintaining effective relationships, working harmoniously with others, considering other viewpoints and being willing to give assistance.)	2	Willingly cooperates with others.
	6. STABILITY (Maintaining composure and effectiveness under pressure and adverse and changing conditions.)	2	Appears stable when working under pressure.
	7. SUPERVISION AND ADMINISTRATION (Development of employees, respect, loyalty and cooperation gained, effectiveness of delegation of authority, distribution of work, coordination and control of diversified activities, assuring conformance to high standards, planning and organization.)	0	Must improve in technical competence before being in a position to have respect, loyalty and cooperation of employees. Lacks ability to conform to high standards. Exhibits inability to plan and organize assigned work satisfactory.
80			

DD FORM 1 MAY 68 1559

SECTION II - CAREER PLAN

1. CAREER GOALS - STATE CAREER GOALS IN TERMS OF ACHIEVEMENT DESIRED WITH RESPECT TO THE FOLLOWING POSSIBILITIES. IT IS NOT NECESSARY TO SUPPLY COMMENT FOR ALL CATEGORIES LISTED BELOW. EMPLOYEES OBJECTIVES SHOULD BE DISCUSSED ONLY IN THOSE AREAS THAT REALLY APPLY: THAT IS, SUPPLY ENOUGH INFORMATION TO FULLY ESTABLISH CAREER GOALS. OTHERWISE ANY ONE OR MORE (but not all) OF SUB-ITEMS 'a' THROUGH 'f' MAY BE LEFT BLANK. IF FURTHER EXPLANATION OF THESE GOALS IS NEEDED, OR IF TIME, PLACE AND/OR SEQUENCE OF ATTAINMENT ARE MATERIAL TO THEIR PROPER EXECUTION, USE LAST ITEM "OTHER GOALS".

a. FUTURE JOB ASSIGNMENTS (include functional specialties, grades and/or titles which represent career goals. Special assignments in defense relations between the USA and their alliance in fields of ammunition and weapons.	b. FUTURE DUTIES (Include specific duties or groups of duties not necessarily embraced by known functional job titles) Special assigned duties and supply or exchange information in ammunition and weapon fields in and out of the USA.
c. FURTHER KNOWLEDGE AND SKILLS (Identify desired capabilities and/or knowledge or disciplines to be acquired). On-the-job experience sufficient.	d. ROTATIONAL JOB ASSIGNMENTS (Include other capacity in which it is desired to apply experience and knowledge) The rotational job assignment could be useful in the following areas: production, procurement, and research. Assignments which would utilize multi-language ability.
e. ORGANIZATION, MISSION (Includes kinds of organization in which assignment is desirable) Federal government organization and their missions in and out of the USA, such as the following: APSA, MUCOM, Air Force, and Navy.	f. OTHER GOALS (List other factors not accounted for in above items)

SECTION II - CAREER PLAN (Continued)

2. TRAINING AND DEVELOPMENT - WITH RESPECT TO FURTHER TRAINING AND DEVELOPMENT, CONSIDER NEEDS AND PLANS TOGETHER. THIS INFORMATION IS TO BE FURNISHED THROUGH JOINT EFFORT OF SUPERVISOR AND EMPLOYEE.

a. TRAINING NEEDS (What does the employee need with respect to any or all of the following)	b. TRAINING PLANS (What actions can be taken with respect to any or all of the following to accommodate these needs?)
(1) SUBJECT MATTER KNOWLEDGE	(1) FORMAL EDUCATION (e.g., what college courses, etc.)
(2) SPECIAL SKILLS Continued development of written communication skills.	(2) DOD SPONSORED COURSES (INCLUDES LOCAL TRAINING) Course No. 160 DIMC defense intelligence management course (JT). Course No. 161 National senior intelligence course (JT). On-post communication course.
(3) EXPERIENCE Additional on-site production process experience as GOCO facilities.	(3) JOB ASSIGNMENTS DETAIL, PROMOTION REASSIGNMENT Reassignment as opportunities become available.
(4) ORGANIZATION Centralize orientation of the Federal Government.	(4) ON-THE-JOB ACTIVITY (i.e., present position)
(5) PERSONAL DEVELOPMENT Basic supervisory training.	(5) OTHER SELF-DEVELOPMENT Correspondence and other feasible courses.
(6) OTHER DEVELOPMENT Experience and training in accordance with Agency requirements.	(6) OTHER TRAINING

E4

SECTION III - COMMENTS

1. IMMEDIATE SUPERVISOR'S COMMENTS

Mr. Vaicekauskas has unsatisfactorily performed the technical work assigned to him during this appraisal period. He has great difficulty in expressing himself both in oral and written communication. His solution to problems arising from his assigned work is technically very shallow and lacks completeness and thoroughness. Any job assignment given to Mr. Vaicekauskas has to be viewed with these comments in mind until he demonstrates that he has improved his performance.

DATE	TYPED NAME, TITLE AND ORGANIZATION	SIGNATURE OF SUPERVISOR
	ROBERT C. FANNING Act C, LWY/Reactivation Tech Div SMUAP-MT-L	

2. EMPLOYEE COMMENTS THE ABOVE CAREER APPRAISAL AND PLAN HAVE BEEN DISCUSSED WITH ME AND MY COMMENTS (if any) ARE AS FOLLOWS:

I disagree and non-concur with this career appraisal because during this rating period I have been forced to work out of my officially assigned position which has been the basis for my filing of a formal grievance, Docket No. 05-73-038-G, and which has resulted in my being transferred, by direction of the Commanding General, L. E. Van Buskirk, to another job within the Manufacturing Technology Directorate, on 2 April 1973. I have also formally filed a request for a review and reversal of an unsatisfactory performance rating awarded me on 14 February 1973 and this career appraisal, which is still pending.

DATE	SIGNATURE OF EMPLOYEE
9 MAY 1973	PETER VAICEKAUSKAS

3. REVIEWING SUPERVISOR'S COMMENTS
TO WHAT EXTENT DO YOU AGREE WITH ABOVE CAREER APPRAISAL AND PLAN?

It is recommended that Mr. Vaicekauskas be counseled frequently by his supervisor and that he be given every opportunity to regain a satisfactory performance rating. Talk listen sessions are an excellent vehicle to improve communication with the encumbent and encourage him to enroll in courses (off-post and on-post) to improve his oral and written communication skills.

DATE	TYPED NAME, TITLE AND ORGANIZATION	SIGNATURE OF REVIEWER
18 May 1973	BERNARD M. CONNELLY Deputy Director, Mfg Tech Directorate	

4. CAREER ADVISOR'S COMMENTS

Career plan is acceptable.

DATE	TYPED NAME, TITLE AND ORGANIZATION	SIGNATURE OF CAREER ADVISOR
18 May 73	T. H. BLOUNT Deputy Chief, Production Division	

Page 4 U.S. GOVERNMENT PRINTING OFFICE: 1969-343783/375

E-I

EXHIBIT NO. 2

DIE TECHNISCHE HOCHSCHULE FRIDERICIANA ZU KARLSRUHE

VERLEIHT

HERRN

Petras Vaicekauskas

GEBOREN AM 2. JUNI 1925 IN KRETINGA/LITAUEN

DEN AKADEMISCHEN GRAD

DIPLOM-INGENIEUR (DIPL.-ING.)

NACHDEM ER AN DER FAKULTÄT FÜR MASCHINENWESEN DIE DIPLOMHAUPTPRÜFUNG ALS MASCHINEN-INGENIEUR DER STUDIENRICHTUNG ALLGEMEINER MASCHINENBAU MIT DEM GESAMTURTEIL

bestanden

ABGESCHLOSSEN HAT.

KARLSRUHE, 30. JULI 1955

DER REKTOR

Schleiter

DER DEKAN

THE UNIVERSITY OF MICHIGAN
Ann Arbor
College of Engineering

Office of the Dean

December 20, 1962

Peter Valcekauskas
5850 Proctor Avenue
Detroit 10, Michigan

Dear Mr. Valcekauskas:

We have just concluded a review of your academic records from Germany, Technische Hochschule Friderciana Zu Karlsruhe.

It is our observation that you have completed a program of study which would be comparable to our offerings in the College of Engineering, University of Michigan. Our evaluation of your record is as follows:

Page 8	
Higher Math I (probably advanced calculus)	5 hrs.
Higher Math recitation	2 "
Descriptive Geometry	3 "
Descriptive Geometry recitation	1 "
Technical Mechanics I	5 "
Intro to Building Machines & Apparatus	2 "
Machine Design (Technical Drawing)	4 "
Mechanical Technology I	3 "
Experimental Physics	4 "
German	2 "
Page 10	
Higher Math II (advanced calculus)	5 "
Higher Math recitation	2 "
Experimental Physics I	4 "

Peter Valcekauskas

Technical Mechanics II	4 hrs.
Technical Mechanics recitation	2 "
Elements of Machines	2 "
Mechanical Technology II	3 "
Mechanical Technology seminar	2 "
Intro to Chemistry	4 "
Drawing of Machines	4 "
German	2 "
Page 12	
Elements of Machines	10 "
Physics - laboratory	3 "
Mechanical Technology III	3 "
Intro in Electrical Techniques	4 "
Thermodynamics	4 "
Technical Mechanics III	5 "
Higher Math III (advanced calculus)	6 "
German	2 "
Page 14	
Laboratory in Machines I	3 "
Elements of Machines III	2 "
Elements of Machines recitation	6 "
Thermodynamics II	3 "
Technical Mechanics IV	3 "
Technical Mechanics recitation	2 "
Economics	2 "
Page 16	
Piston Machines	4 "
Hydrodynamics	4 "
Technique of Measurements (not surveying)	3 "
Transportation Technique (materials handling	2 "
Furnace Operation	2 "
Machine Shop	2 "
Elements of Machines - recitation	6 "
World View of the Engineer (Engineer's place in society)	2 "
History of Economics	2 "

Peter Vaicekauskas

Page 18		
Thermodynamics III	3	hrs.
Machine Laboratory	2	"
Transportation Technique (above)	2	"
Turbines - machines - (water)	6	"
Piston machines	5	"
Technique of High Voltage	3	"
Theory of Transmissions	3	"
How to Organize a Factory, etc.	1	"
Steam and Gas Turbines	2	"
Elements of Machines - recitation	6	"
Page 20		
Transportation Technique (above)	2	"
Operation of Steam Machinery	1	"
Automobiles	2	"
Building of Locomotives	2	"
Elements of Public Law	2	"
Page 22		
Transportation Technique (above	2	"
Furnace Construction for Industry (includes recitation)	3	"
Manufacturing Machines II	2	"
Organization of a Factory	1	"
Page 24		
Took first examination for the diploma		
Page 26		
Preparing first paper	3	"
Title - Water Turbines (perhaps more)		
Page 28		
Preparing second paper	6	"
Title - Piston Machines		
Laboratory in Electricity	3	"
Page 30		
Second paper continued	6	"
Automobiles	2	"
Diesel Engines	2	"

Peter Vaicekauskas

Remainder of time paid ½ fees. Probably had a leave of absence to prepare for the examination.

Last Page
Has done diploma work and has completed the second paper.

Very truly yours,

/s/ R. H. Hoisington
R. H. Hoisington
Assistant to the Dean

RHH:jrb

P.S. We are afraid to return your credentials through the mails, so will hold them in this office until you can pick them up.

E*I

EXHIBIT NO. 3

DEPARTMENT OF THE ARMY MATERIEL READINESS
HEADQUARTERS, UNITED STATES
ARMY ARMAMENT/COMMAND
ROCK ISLAND, ILLINOIS 61299

REPLY TO
ATTENTION OF:

DRSAR-IG 15 DEC. 1978

Mr. Peter Vaicekauskas
HQ, ARRCOM
ATTN: DRSAR-IRI
Rock Island, IL 61299

Dear Mr. Vaicekauskas:

I have discussed the matters which you brought to our attention on 4 December 1978 with the HQ, ARRCOM Chief of Staff, Director Industrial Readiness Directorate, and the ARRCOM Security Office. All are concerned and agree with what I told you during our initial meeting regarding the fact that neither this office nor HQ, ARRCOM has jurisdiction over the personal situation which you described. My original recommendation that you continue to deal with the local Police Department (s), the Immigration Service, and/or the FBI stands; especially if any further incidents are encountered.

I am sorry that this answer could not be more responsive to your personal problem. I believe, however, that you understand our position. The matter is not under the jurisdiction of the Department of the Army.

Sincerely,

Lawrence F. McDaris, Jr.
LTC, IG
Inspector General

APPENDIX "A"

UNITED STATES COURT OF APPEALS
FOR THE SEVENTH CIRCUIT
CHICAGO, ILLINOIS 60604

October 18, 1978
(Submitted October 16, 1978)

UNPUBLISHED ORDER
NOT TO BE CITED
PER CIRCUIT RULE 35

Before
Hon. WALTER J. CUMMINGS, Circuit Judge
Hon. WILBUR F. PELL, JR., Circuit Judge
Hon. HARLINGTON WOOD, JR., Circuit Judge

PETER VAICEKAUSKAS, Plaintiff-Appellant, No. 78-1007 IMMIGRATION AND NATURALIZATION SERVICE IN CHICAGO, ILLINOIS, Defendant-Appellee.	) Appeal from the) United States Dis-) trict Court for the) Northern District) of Illinois,) Eastern Division.) No. 77-C-1732)) Joseph Sam Perry, Judge

O R D E R

This is a pro se appeal from an order granting a motion to dismiss for want of jurisdiction. The appeal is submitted on briefs without oral argument pursuant to Rule 2, Fed.R.App.P. At issue is whether jurisdictional requirements under the Federal Tort Claims Act were met, and whether a private citizen may seek mandamus to compel the deportation of an illegal alien.

On May 16, 1977 plaintiff Peter Vaicekauskas filed pro-se a Complaint in the United States District Court, Northern District of Illinois. The Complaint requested that the Immigration and Naturalization Service (INS) deport an alien whom he had

brought into this country as his fiancee, but who on arrival had refused to consummate the marriage[1/] and bilked plaintiff of his savings and possessions. The Complaint further alleged, or implied, that the failure of the INS to promptly act on his first request that she be deported had enabled her to bilk him; given her an opportunity to sue for divorce, against which he had defended at great expense; led to his receiving an unsatisfactory job rating at the U.S. Ammunition Procurement and Supply Agency, Joliet, Illinois which he successfully appealed at great expense; led to his being transferred to Rock Island; and resulted in damage to his character and reputation; for all of which he sought from the INS expenses and damages totaling $691,806.

Defendant construed the complaint as stating a cause of action in tort, and as seeking mandamus, and on July 11, 1977 filed a motion to dismiss for want of jurisdiction, with a memorandum of law in support. The defendant argued in part that under the Federal Tort Claims Act the proper party defendant is the United States of America, not the INS.

On July 18, 1977 plaintiff filed a request for a court order that INS turn over its files in this case to plaintiff. The Court took this under advisement, but owing to its disposition of the case, never ruled on it.

1/ It is unclear from the record whether they were in fact married. They contracted in Lithuania to marry here, but on arrival here she refused. Subsequently however, he sued for annulment and she counterclaimed for divorce. If there was no marriage, she is deportable as an ex-fiancee under 8 U.S.C. 1184(d). If there was a marriage which was annulled, she may be deportable for fraudulent entry under 8 U.S.C. 1251(c). The discussion below is not affected by this ambiguity, as the language of the two sections is similar.

Attorney Joseph H. Horwich of Torme, Horwich and Briskman filed an appearance for plaintiff on August 4, 1977, and on September 12, 1977 filed an answer to defendant's motion to dismiss. Defendant filed its reply on September 19, 1977, and the suit was dismissed for want of jurisdiction by order of court on November 14, 1977.

On November 25, 1977 plaintiff filed pro-se his timely notice of appeal. Recognizing that this appeal is filed pro-se we have read appellant's briefs as liberally as possible. The law, however, is unambiguously clear, and the decision below dismissing this claim should be affirmed.

Personal Jurisdiction

Insofar as the plaintiff's claim seeks to recover for damages and costs he has suffered by the failure of the INS to act, his claim is in tort. Traditionally the Government and its agencies have been immune from suit. In partially surrendering that immunity in the Federal Tort Claims Act, the Government required that certain procedures be followed if a claim for damages is to be brought against it. One such requirement is that, because a suit against a federal agency is a suit against the federal government, Blackmar v. Guerre, 342 U.S. 512 (1952), the suit must name the United States of America and a federal agency may not be sued in its own name, Hartke v. Federal Aviation Administration, 369 F.Supp. 741 (D.C.N.Y. 1973) at 743; Meyer Mfg. Co. v. Foley, 234 F.Supp. 732 (D.C.Iowa, 1964). Thus, if plaintiff has been wronged, his remedy was not by a suit against the INS but by a suit against the United States of America. Although Vaicekauskas, in his answer to defendant's motion to dismiss, was represented by counsel, and might then have sought leave to amend his complaint (Fed.R.Civ.P. 15(a)), he did not do so. The District Court therefore properly found that it was without jurisdiction to hear plaintiff's tort claim.

No. 78-1007

Subject Matter Jurisdiction--Exhaustion of Remedies

Even if Vaicekauskas had amended his complaint, the District Court would still have lacked jurisdiction, and would have had to dismiss. The Federal Tort Claims Act (28 U.S.C. §2675(a)) expressly requires that before a suit for damages may be brought against the Government, a claim must first have been presented to the appropriate federal agency. The filing of such an administrative claim is a mandatory condition precedent to filing a civil action against the United States for damages arising from the negligent act or omission of any government employee acting within the scope of his employment. Melo v. United States, 505 F.2d 1026 (8th Cir. 1974); Best Bearings Co. v. United States, 463 F.2d 1177 (7th Cir. 1972); Bialowas v. United States, 443 F.2d 1047 (3d Cir. 1971). In other words, before suit can be brought against the United States for damages resulting from the failure of a federal agency to take a particular action, a claim must first have been presented to that agency and failure to present such a claim is an absolute bar to suit against the United States. Vaicekauskas does not allege that he has filed an administrative claim with the INS and does not challenge defendant's statement that "the records of that agency do not indicate the filing of such a claim." (Defendant's brief, p. 6). Since the filing of an administrative claim is a jurisdictional prerequisite to suit against the United States, Best Bearings, supra, at 1179, plaintiff's suit for damages was properly dismissed for lack of jurisdiction.

Mandamus-Standing

Insofar as plaintiff seeks to compel the INS to deport a certain alien, his complaint may be understood as seeking mandamus, or injunctive relief. Either way, the plaintiff lacks standing to bring such a suit. The Supreme Court has clearly stated that "a citizen lacks standing to contest the policies of the prosecuting authority when he himself

No. 78-1007

is neither prosecuted nor threatened with prosecution." Linda R.S. v. Richard D., 410 U.S. 614 (1972) at 619. The federal courts have customarily refused to order prosecution of particular individuals at the instance of private persons, Nader v. Saxbe, 497 F.2d 676 (1974), at 679, n.18, because the weighing of many factors, including agency resources, and thus properly an executive function. Such policy should not be determined by individual lawsuits. Cf. Smith v. United States, 375 F.2d 243 (5th Cir. 1967), cert. denied 389 U.S. 841. Although deportation is a civil, not a criminal proceeding, Ramirez v. INS, 550 F.2d 560 (9th Cir. 1977); LeTourneur v. INS, 538 F.2d 1368 (9th Cir. 1976), cert. denied, 429 U.S. 1044; Chavez-Roya v. INS, 519 F.2d 397 (7th Cir. 1975), deportation is a penalty, Costello v. INS, 376 U.S. 120 (1963) at 128, and the policies governing criminal prosecution apply to deportation.

The initiation of deportation proceedings, like the initiation of criminal prosecution, is left to the discretion of the Attorney General. "Under the deportation statute (8 U.S.C. §§ 1254) the Attorney General has discretion whether to deport or not and cannot be compelled to deport." U.S. ex rel. Masucci v. Follette, 272 F.Supp. 563 (S.D.N.Y., 1967) at 565. A basic treatise in the field states that

> since the deportation process is administrative it follows that a private individual or organization has no standing to bring suit to require that a specific alien or group of aliens be deported. Only the Attorney General can determine whether deportation proceedings will be brought. And his determination not to bring deportation proceedings is not subject to judicial scrutiny.

Gordon & Rosenfield, Immigration Law and Procedure (1978), at 5-8, citing Texas State AFL-CIO v. Kennedy, 330 F.2d 217 (D.C. Cir. 1964), cert. denied

379 U.S. 826.[2/] Matters which are left by law to agency discretion are not subject to judicial review. Administrative Procedure Act, 5 U.S.C. § 701(a)(2).

General considerations of standing lead to the same result. "A litigant must show that he has sustained or will sustain an injury in fact, that his situation comes within a 'zone of interest' arguably

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[2/] The extent of the Attorney General's discretion in this case not to initiate deportation proceedings might be questions, in light of the language of 8 U.S.C. 1184(d), which provides that if a fiancee of a citizen is admitted as a nonimmigrant and they fail to marry within three months of her entry, she "shall be required to depart from the United States and upon her failure to do so shall be deported in accordance with sections 1252 and 1253 of this title." Sections 1252 and 1253 govern the procedures for deportation, and although in both considerable discretion is given the Attorney General, in neither is there reference to the initiation of proceedings. However, section 1251, which lists the classes of deportable aliens, clearly makes their deportation dependant upon "the order of the Attorney General." Every proceeding to determine the deportability of an alien in the United States is commenced by the issuance and service of an order to show cause by the service ...." 8 C.F.R. 242.1(a). Once the Attorney General, or the District Director to whom the authority is delegated (8 C.F.R. 103.1(n), orders a proceeding commenced, the immigration judge must order deportation if the evidence supports a finding under Section 1251, Guan Chow Tok v. INS, 538 F.2d 36 (2d Cir. 1976), but the tradition of prosecutorial discretion strongly suggests that the issuance of the order to show cause remains discretionary. Nothing in the legislative history of Section 1184(d) would contradict this view. See H.R.Rep. No. 851, 91st Cong., 2nd Sess., 1970 U.S. Code, Cong. & Ad. News 2750.

protected by the statute in question, and that a 'logical nexus' links the injury in fact to the governmental action sought or challenged." Nader v. Saxbe, 497 F.2d 675 (D.C. Cir., 1974). We do not doubt that plaintiff has sustained an injury in fact, but we seriously doubt that his situation comes within the "zone of interest" protected by the Immigration and Naturalization Act. That Act seeks to broadly protect the public interest. There is no suggestion that it aims to protect citizens from the intentional torts of illegal aliens. See H.R.Rep. No. 1365, 82nd Cong., 2d Sess., 1952 U.S. Code Cong. & Ad. News 1653. More conclusively, the injunctive relief which Vaicekauskas seeks would not remedy his injuries, but would serve only to punish his ex-fiancee. There is therefore no such logical connection between his injury and the action he seeks as is necessary to give him standing to bring this suit. Nader v. Saxbe, 471 F.2d at 680; Linda R.S. v. Richard D., 410 U.S. at 618. Dismissal by the District Court for want of jurisdiction was therefore entirely proper.

For the above reasons, the order of the District Court is affirmed.

CERTIFIED COPY

A True Copy:
Teste:

/s/ Gino P. Naughton
Deputy Clerk of the
United States Court
of Appeals for the
Seventh Circuit

APPENDIX " B "

JUDGMENT ON DECISION BY THE COURT CIV 82 (7-GS)

UNITED STATES DISTRICT COURT
FOR THE
Northern District of Illinois
Eastern Division

CIVIL ACTION FILE NO. 77 C 1732

Peter Vaicekauskas,
Plaintiff,
vs.
Immigration and Naturalization Service,
Defendant

JUDGMENT

upon motion

This action came on/for trial (hearing) before the Court, Honorable Joseph Sam Perry, United States District Judge, presiding, and the issues having been duly tried/(heard) and a decision having been duly rendered,

It is Ordered and Adjudged that this action be and it hereby is DISMISSED for want of jurisdiction.

Dated at Chicago, Illinois ,this Fourteenth day November , 1977

H. S. Cunningham

B-2

UNITED STATES DISTRICT COURT, NORTHERN
DISTRICT OF ILLINOIS EASTERN DIVISION

Name of Presiding Judge, Honorable Joseph Sam Perry

Cause No. 77 C 1732 Date November 14, 1977

Title of Cause Peter Vaicekauskas vs. Immigration & Naturalization Service.

Brief Statement of Motion

The rules of this court require counsel to furnish the names of all parties entitled to notice of the entry of an order and the names and addresses of their attorneys. Please do this immediately below (separate lists may be appended).

Names and Addresses of moving counsel

Representing

Names and Addresses of other counsel entitled to notice and names of parties they represent.

Reserve space below for notations by minute clerk.

This cause comes on upon defendant's motion to dismiss for want of jurisdiction. The court has read and considered said motion and the memoranda of the respective parties in support thereof and in opposition thereto and finds that said motion is well taken and should be granted.

Accordingly, it is ORDERED that said motion be and it hereby is granted, and that this action by and through a separate judgment order entered simultaneously herewith, be and it hereby is DISMISSED for want of jurisdiction.

NOV. 15, 1977 J. S. Perry

Hand this memorandum to the Clerk.
Counsel will not rise to address the Court until motion has been called.

Supreme Court, U. S.
FILED
MAR 27 1979
MICHAEL RODAK, JR., CLERK

No. 78-1378

In the Supreme Court of the United States

OCTOBER TERM, 1978

PETER VAICEKAUSKAS, PETITIONER

v.

UNITED STATES OF AMERICA, ET AL.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

MEMORANDUM FOR THE RESPONDENTS IN OPPOSITION

WADE H. MCCREE, JR.
Solicitor General
Department of Justice
Washington, D.C. 20530

In the Supreme Court of the United States

OCTOBER TERM, 1978

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PETER VAICEKAUSKAS, PETITIONER

v.

UNITED STATES OF AMERICA, ET AL.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

MEMORANDUM FOR THE RESPONDENTS IN OPPOSITION

The judgment of the court of appeals in this civil case was entered on October 18, 1978 (Pet. App. A1). Petitioner did not seek rehearing in the court of appeals, and he did not obtain an extension of time within which to file a petition. The time provided by 28 U.S.C. 2101(c) within which to file a petition for certiorari therefore expired on January 16, 1979. The petition was not filed until January 25, 1979. The time limit provided by Section 2101 (c) is jurisdictional. *Department of Banking* v. *Pink*, 317 U.S. 264 (1942). It is therefore respectfully submitted that the petition for a writ of certiorari should be denied.

WADE H. MCCREE, JR.
Solicitor General

MARCH 1979

☆ U. S. GOVERNMENT PRINTING OFFICE: 1979 269743 367